



American
Petroleum
Institute



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Mark Hutchins, Senior Program Officer
The National Academies of Sciences, Engineering, and Medicine
500 Fifth Street, NW
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Transmitted via email.

SUBJECT: CLARIFICATIONS RE: THE NATIONAL ACADEMIES OF SCIENCE,
ENGINEERING AND MEDICINE (NASEM) REPORT:
*MODERNIZING THE U.S. OFFSHORE OIL AND GAS INSPECTION PROGRAM
FOR INCREASED AGILITY AND SAFETY VIGILANCE*

Dear Mr. Hutchins,

The American Petroleum Institute (API) and the Offshore Operators Committee (OOC) thank you for the opportunity to offer the following comments on the pre-publication draft of *Modernizing the U.S. Offshore Oil and Gas Inspection Program for Increased Agility and Safety Vigilance* (hereinafter referred to as “the Report”). API and OOC recognize and appreciate the NASEM Committee’s efforts to develop this important document.

API is a national trade association representing 600 member companies involved in all aspects of the oil and natural gas industry. API’s members include producers, refiners, suppliers, pipeline operators, and marine transporters, as well as service and supply companies that support all segments of the industry. API and its members are dedicated to meeting environmental requirements, while economically developing and supplying energy resources for consumers.

OOC is an offshore energy trade association that serves as a technical advocate for companies operating on the US Outer-Continental Shelf (OCS). Founded in 1948, the OOC has evolved into the principal technical representative regarding regulation of offshore energy operations.

The following comments are offered for your consideration. These comments are made without prejudice to any of our member companies who may have differing or opposing views.

1. Clarification: Center for Offshore Safety (COS) does not Receive Audit Reports

On Page 41 of the report under the discussion of COS, the report states:

“COS now receives SEMS audit reports from all operators, which allows the organization to analyze findings.”

API and OOC would like to clarify that COS does not receive audit reports from operators. COS, has however, received audit findings information from BSEE to use to develop good practices and promote continual improvement. Recommended language to revise the Report is as follows:

“Certain data from SEMS audits has been collected by COS, and in 2020, COS received a set of anonymized audit findings from BSEE for analysis. Analysis of these data were addressed in several COS Annual Reports, which aided COS in determining subjects for development of good practices to promote continual improvement.”

2. Clarification: Best Available and Safest Technology (BAST)

The Report recommends that BSEE “mak[e] more effective use of the BAST process to encourage the development and introduction of technologies” to “leverage advances in offshore technology to meet the demands of the inspection and SEMS programs.” We do not believe that use of the BAST concept is appropriate to achieve this recommendation. BAST focuses on technological advances in equipment to improve safety, rather than to support the demands of the BSEE inspection program. Further it is clear that the Equipment Subject to BAST (EStB) assessment process “includes commercially available and economically feasible equipment” rather than developing or emerging equipment. And lastly “BSEE assesses gaps between performance requirements of the equipment and BSEE regulations.” The BAST process is focused on determining and closing the gaps in BSEE regulations regarding **equipment** identified as BAST. Therefore, the BAST process is not the right tool or process to accomplish the recommendations regarding effective use of the BSEE inspections described in Report.

However, there is no issue with the recommendation that “BSEE should articulate a vision for how advances in offshore technology can be leveraged to fulfill its safety oversight and inspection functions, where they will need to be leveraged, and how they can improve the performance and meet the demands of the inspection and SEMS programs. BSEE should collaborate with industry on the expertise and management processes that will be required to pilot and then implement new strategies that make effective use of technological advancements.” The point is that this recommendation is unrelated to BAST.

Further the Report claims that the Emerging Technologies Branch (ETB) “identifies and assesses how new technologies may be applied and integrated into new and modified regulations and industry consensus standards” and that the ETB’s BAST Section “assesses drilling and production technologies to ensure that they meet statutory requirements for the use of the best available and safest technologies.” This description of the ETB function is not correct and does not align with the BSEE description of EStB. As noted above, the EStB is supposed to identify equipment for the BAST process and the BAST process then identifies gaps in the regulations resulting from the BSEE performance requirements for that equipment.

3. Clarification: The Outer-Continental Shelf Lands Act (OCSLA) Requirements

The Outer Continental Shelf Lands Act states:

“The Secretary and the Secretary of the Department in which the Coast Guard is operating shall individually, or jointly if they so agree, promulgate regulations to provide for –

(1) Scheduled onsite inspection, at least once a year, of each facility on the outer Continental Shelf which is subject to any environmental or safety regulation promulgated pursuant to this subchapter, which inspection shall include all safety equipment designed to prevent or ameliorate blowouts, fires, spillages, or other major accidents;”

The first paragraph of the Report references this annual inspection requirement and recognizes the main issue that BSEE faces in improving the offshore inspection program:

“Given the expectation, based on interpretations of the Outer Continental Shelf Lands Act, that inspections are to be conducted on each offshore facility at least once per year, BSEE faces many challenges as it seeks to fulfill its stated mission “to promote safety, protect the environment, and conserve resources through vigorous regulatory oversight.”

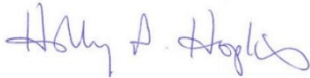
This has been the “elephant in the room” for as long as NASEM (and subordinate committees) have been providing recommendations to BSEE and its predecessors the Minerals Management Service (MMS) and the U.S. Geological Survey (USGS). Even in the 1981 report of *Offshore Safety*, NASEM recognized that USGS “conducts more frequent inspections of platforms with a history of inspection violations than of those that have no recent violations.” Although not called “risk-based” this is essentially a risk-based inspection based on operator compliance performance. As stated in the Executive Summary, BSEE faces many challenges including,

“...keeping up with rapidly advancing and changing exploration and production technologies, the growing number of more varied, complex, and difficult to access facilities operating in deeper water and on the seafloor, and an aging population of legacy platforms mostly operating in shallow water.”

Yet, the committee does not formally recognize the hindrance, and the resource requirements, that the OCSLA language places on BSEE to comply with the “annual inspection” directive. Current OCSLA language limits BSEE’s ability to evaluate the risks of the operations and prioritize the necessary inspections and oversight of those higher risk operations. In other words, this directive does not allow BSEE to maximize or focus its resources using a risk-based inspection approach.

API and OOC appreciate the opportunity to provide these clarifying comments. If you have any questions or need additional information, please contact Holly Hopkins, API, hopkinsh@api.org and Greg Southworth, OOC, greg@theooc.org.

Sincerely,



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cc:

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